

HOUSE BILL 1692  
By Head

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, relative to taxation on prepared food and beverages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding Sections 2 through 6 of this act as a new part.

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Alcoholic beverages" includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patent medicine, or beer where the latter contains an alcoholic content of five percent (5%) by weight or less as these terms are defined in §57-3-101.

(2) "Beer" means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine.

(3) "Beverages" includes bottled or canned drinks; alcoholic beverages; beer; milk; and coffee, tea and hot chocolate, not in an original package, but in liquid form and in containers for consumption.

(4) "Bottled or canned drinks" includes any and all nonalcoholic beverages, whether carbonated or not, such as, iced tea, soda water, bottled or distilled water, cola drinks, fruit drinks, fruit juice, gingerale and the like, and all bottled or canned preparations commonly referred to as soft drinks of whatever kind or description which

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are closed and sealed in glass, paper, metal, plastic, or any type of container or bottle, whether manufactured with or without the use of syrup. "Bottled or canned drinks" does not include natural undiluted fruit juice or vegetable juice, cider and pure fruit juice concentrate to which no additive has been made, with only water being necessary to be added to restore the juice to its natural state.

(5) "Food service establishment" means any establishment, place or location, whether permanent, temporary, seasonal or itinerant:

(A)(i) which prepares and sells food and/or beverages on the premises, or

(ii) which sells food and/or beverages which have been prepared

elsewhere;

for consumption on or off the premises of the establishment to the public; and

(B) which is generally required by law to collect and remit sales tax for

such sales at retail in the normal course of business.

Such term includes, but is not limited to restaurants, diners, cafes, cafeterias, lunch counters, caterers and other similar establishments which are engaged in the business of selling prepared food and/or beverages, including soda fountains and delicatessens within such establishments.

For the purpose of the sale of "beverages" such term includes retail food stores, discount stores and all other markets.

For the purpose of prepared foods sold for consumption on or off the premises at a salad bar, or at a delicatessen, lunch counter or bakery department within an establishment, such term includes retail food stores, discount stores or any other markets.

(6) "Milk" means milk from cows or goats.

(7) "Nonalcoholic beverages" means all beverages containing no alcohol or less than one half of one percent (.5%) alcohol by volume.

(8) "Prepared foods" means all foods prepared for consumption on or off the premises of a food service establishment, excluding frozen foods and all other foods purchased at a retail food store, discount store or market unless purchased at a salad bar, delicatessen, lunch counter or bakery department of such establishments.

SECTION 3. In addition to any other taxes authorized by law, the legislative body of a county by resolution is authorized to impose a privilege tax, not to exceed two percent (2%), on the sale of prepared food and beverages sold to consumers at food service establishments located within its boundaries. Such tax shall be a tax on the consumer of the prepared food or beverage and shall be imposed at the time of the sale of such items. The additional tax is to be computed on the gross sale for the purpose of remitting the amount of tax due to the county which imposes such tax, excluding the amount of any state or local sales tax which may be imposed on such items.

SECTION 4. (a) Such taxes shall be collected by the food service establishment and remitted to the county in the manner designated by the county, in its resolution, which imposes such tax.

(b) The proceeds of any tax so imposed shall be allocated for education-related capital improvements, specifically including the payment of principal and interest on bonds or notes issued for education capital improvements.

(c) The resolution shall also provide for delinquency penalties, if it is the intent of the county to impose such penalties, and whether the food service establishment is authorized to retain any portion of the tax for collecting and remitting the tax to the county.

SECTION 5. A county shall levy such tax on prepared food and beverages sold at food service establishments located within its boundaries.

SECTION 6. No resolution of a county authorizing a tax on the sale of prepared food and beverages shall take effect unless it is approved by a two-thirds (2/3) vote of the county legislative body at two (2) regularly scheduled meetings.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.